

Debbie Beadle

From: Melonie Anderson
Sent: Monday, March 18, 2013 4:26 PM
To: Evan Maxim; Debbie Beadle
Subject: FW: Environmentally Critical Areas Ordinance Update--Pilot Program--Tightlined Subdivisions
Attachments: Letter to Council Members.pdf
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From: Martin, Larry [mailto:LarryMartin@dwt.com]
Sent: Monday, March 18, 2013 4:23 PM
To: City Council
Cc: Kamuron Gurol; Melonie Anderson
Subject: Environmentally Critical Areas Ordinance Update--Pilot Program--Tightlined Subdivisions

Dear City Council Members-

I have attached a short letter regarding the Planning Commission's recommended Pilot Program to allow a small number of subdivisions to be developed in the Erosion Hazard Overlay Area for your consideration and inclusion in the public record on this matter.

Thank you.

Larry Martin

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EXHIBIT NO. CC21

March 18, 2013

VIA ELECTRONIC & U.S. MAIL

City Council Members
City of Sammamish
801 228th Ave SE
Sammamish, WA 98075

Re: ECA Ordinance Amendments—Erosion Hazard Area Regulations

Dear Council Members:

Pilot Program for Subdivisions with Tightline Stormwater Systems. I am writing on behalf of the Estate of Leanore Propst to urge the City Council to adopt the “Tightline” component of the Pilot Program recommended by the Planning Commission as part of the Environmentally Critical Areas Ordinance amendments. This part of recommendation would allow development of up to three subdivisions on a Pilot Program basis. To qualify as a Tightline Pilot Project:

- All stormwater must be conveyed from the development through a continuous sealed pipe (“Tightline”) to an outfall in Lake Sammamish.
- The permanent Tightline stormwater system must be constructed and operational before subdivision development is allowed to go forward.

Tightlining Accomplishes the Objectives of the ECA. The Erosion Overlay Area portion of the ECA Ordinance is intended to prevent phosphorous and sediment from harming Lake Sammamish. When stormwater is not properly managed it can erode gullies and streams as it flows to lower elevations. Fine eroded soil particles become suspended in the stormwater and are transported into the Lake along with attached phosphorous. Tightlining avoids these environmental impacts by preventing soil erosion and resulting transport of sediment and phosphorous into the Lake.

Requiring a Tightline System is Less Restrictive than Prohibiting Subdivisions. To comply with the Washington State Attorney General’s guidelines on how to validly regulate uses of property without an unconstitutional taking of property rights, the City Council is required to consider whether a more “narrowly tailored” approach can be adopted that would meet the

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objective of the ECA Ordinance with less restriction on landowners' ability to use their property. The method the CAO currently uses to avoid water pollution caused by erosion is to prohibit all subdivision development in areas classified as subject to erosion. This very "broad brush" approach to preventing environmental harm is not used by any other jurisdiction in King County.

Tightlining meets the objective of the ECA Ordinance of preventing sedimentation and phosphorous pollution. It imposes less restriction on use of property. The City's environmental consultant addressed this in the portion of its Best Available Science report that deals with erosion hazard areas:

Where stormwater can be conveyed in a sealed drainage system to an established, stable drainage system, or to a point downstream of the erosion hazard area, the intent of the ECA would be achieved in a manner that allows additional flexibility to land owners (AMEC Report, pages 10-11).

Tightlining is Supported by Best Available Science. The Washington State Growth Management Act requires that "Best Available Science" be taken into account when the ECA Ordinance is amended. Tightlining as recommended by the Planning Commission is consistent with Best Available Science. The City's environmental consultant addressed this in the portion of its Best Available Science report that deals with erosion hazard areas:

In AMEC's experience, when infiltration is not feasible due to the site soils and/or geologic conditions, conveying stormwater via a continuous storm pipe downslope to a point where there is no erosion hazard area downstream from the discharge, and discharging at flow durations matching pre-developed forested land cover and providing stream erosion protection (king County Level 2 flow control), would constitute an outlet designed using the best available science. (AMEC Report, page 10).

Thank you for considering this request.

Davis Wright Tremaine LLP



Larry Martin